



Entered on Docket
October 13, 2009

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,
USA CAPITAL REALTY ADVISORS, LLC,¹
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
USA CAPITAL FIRST TRUST DEED FUND, LLC,²
USA SECURITIES, LLC,³
Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER SUSTAINING SIXTH OMNIBUS
OBJECTION OF USACM TRUST TO
PROOFS OF CLAIM BASED, IN WHOLE
OR IN PART, UPON INVESTMENT IN
BAR USA LOAN**

Hearing Date: October 5, 2009
Hearing Time: 9:30 a.m.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the “Sixth Omnibus Objection of USACM Trust to
2 Proofs of Claim Based, in Whole or in Part, Upon Investment in BarUSA Loan,” [Docket
3 No. 7350] (the “Objection”); with appropriate notice of the Objection having been given;
4 no response to the Objection having been filed; and good cause appearing:

5 **IT IS HEREBY ORDERED:**

- 6 1. The Objection is sustained;
- 7 2. The claims listed in **Exhibit A** based upon a Direct lender investment
8 in the BarUSA loan are disallowed in their entirety; and
- 9 3. To the extent the claims listed on **Exhibit A** are based upon
10 investments in loans other than the BarUSA Loan, this order does not
11 affect them and the USACM Trust may file further objections.

12 PREPARED AND RESPECTFULLY SUBMITTED BY:

13 **LEWIS AND ROCA LLP**

14 By /s/ Marvin Ruth (#10979)

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16 John Hinderaker (*pro hac vice*)

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22 *Attorneys for USACM Liquidating Trust*

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☐ No parties appeared or filed written objections, and there is no trustee appointed in this case.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below (list each party and whether the party has approved, disapproved, or failed to respond to the document):

| | |
|---|---|
| U.S. Trustee: August Landis | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input checked="" type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |
| Other Party: | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |

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Submitted by:

LEWIS AND ROCA LLP

By: /s/ Marvin Ruth (#10979)
 Rob Charles
 John Hinderaker (*pro hac vice*)
 Marvin Ruth
Attorneys for USACM Liquidating Trust

| Claim | Name | Address | Total Claim Amount | Approximate Amount Subject to Objection Because it Relates to an Investment In the BarUSA/\$15,300,000 Loan |
|--------------------|--|---|---------------------------|--|
| 10725-01661 | Christina M. Kehl | Janet L Chubb Esq Jones Vargas PO Box 281 Reno NV 89504-0281 | 1,023,023.12 | 200,000.00 |
| 10725-01437 | Clawiter Associates Llc | 1620 Colchester St Danville, CA 94506 | 225,000.00 | 25,000.00 |
| 10725-00092 | Corison, James | 1427 Kearney Street St. Helena, CA 94574 | 1,023,000.00 | 200,000.00 |
| 10725-01663 | Cynthia Winter | Janet L Chubb Esq Jones Vargas Po Box 281 Reno, NV 89504-0281 | 866,666.67 | 200,000.00 |
| 10725-01416 | Davis IRA, Patrick & Susan | 6816 Citrine Dr Carlsbad, CA 92009 | 75,500.00 | 33,000.00 |
| 10725-02355 | Denise F Fager Revocable Trust UAD 2/28/03 | Denise F Fager Ttee 5 Salvatore Ladera Ranch, CA 92694 23741 Brisbane Bay Dana Point, CA 92629 | 1,327,564.06 | 200,000.00 |
| 10725-02356 | Denise F Fager Revocable Trust UAD 2/28/03 | Denise F Fager Ttee 5 Salvatore Ladera Ranch, CA 92694 23741 Brisbane Bay Dana Point, CA 92629 | 1,327,564.06 | 200,000.00 |
| 10725-02063 | Dery, James D & Ann R | Husband & Wife 10 Longmeadow LN Beachwood, OH 44122 | 2,793,347.72 | 200,000.00 |
| 10725-00900 | Erickson, Eric T And Dolores Y | 1455 Superior Ave #342 Newport Beach, CA 92663-6125 | 390,000.00 | 25,000.00 |
| 10725-02382 | Essaff Family Trust Dtd 6/18/02 | Robert & Cindy H Essaff Ttees 2860 Heybourne Rd Minden, NV 89423 | 3,198,368.02 | 100,000.00 |

EXHIBIT A